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IN THE UNITED STATES  
PATENT AND TRADEMARK OFFICE

Attorney Docket No.: **Google-57 (GP-151-00-US)**

Appl. No.: **10/674,888**

Applicant: **Jeremy BEM**

Filed: **September 30, 2003**

Title: **INCREASING A NUMBER OF RELEVANT ADVERTISEMENTS USING  
A RELAXED MATCH**

TC/A.U.: **1751**

Examiner: **Tri V. Nguyen**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

COMMON OWNERSHIP STATEMENT

Sir:

Further to the assertion of common ownership of the above-referenced application and U.S. Patent No. 6,816,857 ("the Weissman patent") set forth in the amendment dated March 16, 2007, in an Advisory Action mailed on March 28, 2007, the Examiner noted that the Weissman patent is assigned to Applied Semantics, Inc. and requested a common ownership statement, referencing MPEP 706.02(1)(2).

Applied Semantics, Inc. was acquired by Google Technology Inc. via a so-called "reverse triangular merger" on April 23, 2003. A copy of the merger agreement, filed with the Secretary of State of the State of California on

April 23, 2003, is filed herewith. An annotated copy of a diagram illustrating the product of the reverse triangular merger is also filed herewith. In this instance, the acquiring corporation was Google Technology Inc., the subsidiary corporation was Bermuda Acquisition Inc. and the target corporation was Applied Semantics, Inc. Under the reverse triangular merger on April 23, 2003, Applied Semantics, Inc. was a surviving corporation and became a wholly owned subsidiary of Google Technology Inc., a California corporation.

Thus, as of April 23, 2003, and at the time of the instant invention, the present application and all patents assigned to Applied Semantics, Inc., including the Weissman patent, were commonly owned by Google Technology Inc., or subject to an obligation of assignment to Google Technology Inc.

Finally, the applicant notes that Google Technology Inc., a California Corporation, merged with Google Inc., a Delaware Corporation, under the name of Google Inc. on August 28, 2003. A copy of that merger is also filed herewith.

In view of the foregoing, 35 U.S.C. § 103 (c) is applicable and the Weissman patent, which is a reference under 35 U.S.C. § 102(e), cannot be used to preclude patentability. Specifically, 35 U.S.C. § 103 states:

Subject matter developed by another person, which qualifies as prior art only under one or more subsections (e), (f), and (g) of section 102 of this

title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

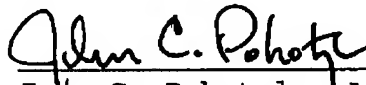
Thus, all rejections under 35 U.S.C. § 103 that rely on the Weissman patent should be withdrawn.

### Conclusion

In view of the foregoing statement of common ownership, the applicant respectfully submits that the pending claims are in condition for allowance. Accordingly, the applicant requests that the Examiner pass this application to issue.

Respectfully submitted,

October 16, 2007



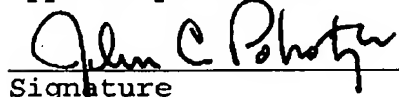
John C. Pokotylo, Attorney  
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### CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper (and any accompanying paper(s)) is being facsimile transmitted to the United States Patent Office on the date shown below.

John C. Pokotylo

Type or print name of person signing certification

  
Signature

October 16, 2007  
Date

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**Matter#** PO25078/200701088  
**Project Id :**

**Order#** 056916-5  
**Order Date** 08/15/2007

<b>Entity Name :</b>	Applied Semantics and Bermuda Acquisition Corp
<b>Jurisdiction :</b>	CA-Secretary of State
<b>Request for :</b>	Certified/Plain Copies
<b>Document Type :</b>	Merger
<b>Result :</b>	Document Retrieved

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**State of California**  
**Secretary of State**



I, DEBRA BOWEN, Secretary of State of the State of California, hereby certify:

That the attached transcript of 16 page(s) was prepared by and in this office from the record on file, of which it purports to be a copy, and that it is full, true and correct.



**IN WITNESS WHEREOF**, I execute this certificate and affix the Great Seal of the State of California this day of

AUG 20 2007

DEBRA BOWEN  
Secretary of State

A0595321

**FILED**In the office of the Secretary of State  
of the State of CaliforniaAPR 23 2003 *Res**Kevin Shelley*  
KEVIN SHELLEY, Secretary of State2139322 *surv***AGREEMENT OF MERGER OF  
APPLIED SEMANTICS, INC.****AND****BERMUDA ACQUISITION INC.**

**THIS AGREEMENT OF MERGER** (this "Agreement"), dated as of April 23, 2003, by and between Bermuda Acquisition Inc., a California corporation ("Sub") and Applied Semantics, Inc., a California corporation (the "Company"). Sub and the Company are sometimes referred to herein collectively as the "Constituent Corporations." Capitalized terms used and not otherwise defined herein have the meanings ascribed to them in Article VI of this Agreement.

**RECITALS**

**WHEREAS**, the Company, Sub, Google Technology Inc., a California corporation and the sole shareholder of Sub ("Parent"), certain officers of the Company, Jordan Libit as Securityholder Agent and U.S. Bank, National Association as Escrow Agent, have entered into that certain Merger Agreement and Plan of Reorganization, dated as of April 18, 2003 (the "Merger Agreement"), provided for, among other things, the execution and filing of this Agreement and the merger of Sub with and into the Company upon the terms set forth in the Merger Agreement and this Agreement (the "Merger");

**WHEREAS**, the respective boards of directors of the Constituent Corporations deem it advisable and in the best interests of each such corporations and their respective shareholders that Sub be merged with and into the Company and, in accordance therewith, have approved of this Agreement, the Merger Agreement and the Merger;

**WHEREAS**, the respective shareholders of the Constituent Corporations have duly approved of and adopted the Merger Agreement and the Merger; and

**WHEREAS**, the Merger Agreement and this Agreement are intended to be construed together in order to effectuate their purposes.

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the foregoing and the mutual benefits to be derived from this Agreement, the parties hereto, intending to be legally bound, do hereby agree as follows:

**ARTICLE I****THE CONSTITUENT CORPORATIONS**

1.1 **The Company.** The authorized capital stock of the Company consists only of 40,000,000 shares of Common Stock, \$0.001 par value per share (the "Company Common Stock"), of which 10,204,160 shares of Common Stock are issued and outstanding as of the date hereof, and 10,000,000 shares of Preferred Stock, \$0.001 par value per share (the "Company Preferred Stock"). The

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designation and status of the Company Preferred Stock is as follows: (i) 500,000 shares are designated as Series A-1 Preferred Stock (the "Series A-1 Preferred Stock"), all of which are issued and outstanding as of the date hereof, (ii) 100,000 shares are designated as Series A-2 Preferred Stock (the "Series A-2 Preferred Stock"), all of which are issued and outstanding as of the date hereof, (iii) 360,000 shares are designated as Series A-3 Preferred Stock (the "Series A-3 Preferred Stock"), 205,000 of which are issued and outstanding as of the date hereof, and (iv) 2,536,232 shares are designated as Series B Preferred Stock (the "Series B Preferred Stock"), 1,975,756 shares of which are issued and outstanding as of the date hereof. All of the issued and outstanding shares of Company Common Stock and Company Preferred Stock are duly authorized and validly issued, fully paid and nonassessable, and have been issued in compliance with all applicable federal, state and foreign securities Laws.

1.2 Sub. Sub is authorized to issue an aggregate of 1,000 shares of its common stock, all of which are issued and outstanding and held by Parent, its sole shareholder.

## ARTICLE I

### THE MERGER

2.1 Merger; Effective Time of the Merger. Subject to the terms and conditions of this Agreement and pursuant to the California General Corporation Law (the "CGCL"), Sub will be merged with and into the Company, with the Company to be the surviving corporation (the Company after the Merger is sometimes referred to herein as the "Surviving Corporation"). The Merger will be effective (the "Effective Time") on the date upon which this Agreement and all required officers' certificates and other appropriate documents are filed with the Secretary of State of the State of California pursuant to Section 1103 of the CGCL.

2.2 Effects of the Merger. At the Effective Time, the Merger will have all of the effects provided by the CGCL. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time: (a) the separate existence of Sub will cease and Sub will be merged with and into the Company, and the Company will become the Surviving Corporation pursuant to the terms of this Agreement; (b) the Articles of Incorporation of the Company shall be amended and restated in their entirety in the form attached hereto as Exhibit A, so as to be identical to the Articles of Incorporation of Sub as in effect immediately prior to the Effective Time; provided, however, that at the Effective Time, Article I of the Articles of Incorporation of the Surviving Corporation shall be amended and restated in its entirety to read as follows: "The name of this corporation is Applied Semantics, Inc."; (c) the Surviving Corporation shall succeed to all rights, privileges, powers, franchises and property of Sub and the Company, and shall be subject to all debts, duties and liabilities of Sub and the Company in the same manner as if the Surviving Corporation had itself incurred such debts, duties and liabilities; and (d) the board of directors and executive officers of Sub will become the board of directors and executive officers of the Surviving Corporation.

2.3 Name. The name of the Surviving Corporation will be "Applied Semantics, Inc."

**ARTICLE III****MANNER AND BASIS OF CONVERTING SHARES  
OF THE CONSTITUENT CORPORATIONS**

3.1 Effect on Capital Stock. Upon the terms and subject to the conditions set forth in this Agreement, at the Effective Time, by virtue of the Merger and without any action on the part of Parent, Sub, the Company or any holder of Company Capital Stock, Company Options or Company Warrants, the following shall occur:

(a) Company Common Stock. Each share of Company Common Stock issued and outstanding immediately prior to the Effective Time shall be canceled and extinguished and automatically converted into the right to receive, upon the terms and subject to the conditions set forth below (i) an amount of cash equal to the Cash Exchange Ratio, without any interest thereon, and (ii) a fraction of a share of Parent Common Stock equal to the Stock Exchange Ratio.

(b) Company Preferred Stock.

(i) Company Series A Preferred Stock. Each share of Company Series A Preferred Stock outstanding immediately prior to the Effective Time will receive the consideration that the Company Common Stock issuable upon conversion thereof would receive (see Section 3.1(a) above) as if such share of Company Series A Preferred Stock converted into Company Common Stock immediately prior to the Effective Time.

(ii) Company Series B Preferred Stock. Each share of Company Series B Preferred Stock issued and outstanding immediately prior to the Effective Time will be converted automatically into the right to receive an amount of cash (without interest) equal to \$8.28.

(c) Cancellation of Parent-Owned and Company-Owned Stock. Each share of Company Capital Stock owned by Parent, the Company or any direct or indirect wholly-owned subsidiary of Parent or the Company immediately prior to the Effective Time shall be automatically canceled and extinguished without any conversion thereof and without any further action on the part of Parent or the Company.

(d) Capital Stock of Sub. At the Effective Time, by virtue of the Merger and without any action on the part of any of the parties hereto, each share of capital stock of Sub issued and outstanding immediately prior to the Effective Time shall be converted into and exchanged for one validly issued, fully paid and nonassessable share of common stock of the Surviving Corporation. Each stock certificate of Sub evidencing ownership of any such shares shall continue to evidence ownership of shares of capital stock of the Surviving Corporation.

(e) Company Options and Company Stock Plan; Treatment of Company Warrants. All Company Options outstanding immediately prior to the Effective Time, whether vested or unvested, together with the Company's 1999 Stock Option/Stock Issuance Plan (the "Company Stock Plan"), shall be assumed by Parent in accordance with the provisions set forth below. Issuances of Parent Common Stock and payments of cash upon exercise of Assumed Company Options (as defined Section 3.1(e)(i) below) shall be subject to applicable withholding.



(i) **Company Options.** Each Company Option outstanding immediately prior to the Effective Time, whether vested or unvested, shall, in connection with the Merger be converted into an option (the "Assumed Company Option") to acquire Parent Common Stock (the "Share Option Portion") and cash (the "Cash Option Portion"), in accordance with the provisions set forth below. Each Assumed Company Option shall continue to have, and be subject to, the same terms and conditions as were applicable to the Company Option immediately prior to the Effective Time (including any repurchase rights or Vesting provisions), subject to the provisions set forth below. It is the intention of the parties that the Share Option Portion of the Assumed Company Options shall qualify following the Effective Time as incentive stock options as defined in Section 422 of the Code to the same extent that such Company Options qualified as incentive stock options immediately prior to the Effective Time."

(1) **Share Option Portion.** The Share Option Portion of each Assumed Company Option shall (subject to the Vesting provisions thereof) be exercisable for that number of whole shares of Parent Common Stock equal to the product obtained by multiplying the number of shares of Company Common Stock that were issuable upon exercise of such Company Option immediately prior to the Effective Time by the Stock Exchange Ratio (rounded down to the nearest whole number of shares of Parent Common Stock) (the "Assumed Option Share Number"). The per share exercise price for each share of Parent Common Stock issuable upon exercise of such Assumed Company Option shall be equal to the product (rounded up to the nearest whole cent) of (1) the quotient obtained by dividing the exercise price per share of Company Common Stock at which such Company Option was exercisable immediately prior to the Effective Time by the Stock Exchange Ratio, multiplied by (2) the quotient obtained by dividing (a) the product of the Reference Value times the Aggregate Stock Consideration (such product, the "Aggregate Reference Value"), by (b) the sum of the Aggregate Remaining Cash Consideration and the Aggregate Reference Value (such sum, the "Aggregate Consideration").

(2) **Cash Option Portion.** The Cash Option Portion of each Assumed Company Option shall (subject to the Vesting provisions of the Assumed Company Option) be exercisable for that amount of cash equal to the product obtained by multiplying the number of shares of Company Common Stock that were issuable upon exercise of such Company Option immediately prior to the Effective Time by the Cash Exchange Ratio (rounded down to the nearest whole cent) (the "Assumed Option Cash Amount" of such Assumed Company Option). The exercise price per dollar of the Cash Option Portion of each Assumed Company Option shall be the quotient (rounded up to the nearest whole cent) obtained by dividing (1) the product of (a) the quotient obtained by dividing the exercise price per share of Company Common Stock at which such Company Option was exercisable immediately prior to the Effective Time by the Stock Exchange Ratio, multiplied by (b) the Assumed Option Share Number, multiplied by (c) the quotient obtained by dividing the Aggregate Remaining Cash Consideration by the Aggregate Consideration, by (2) the Assumed Option Cash Amount of such Assumed Company Option.

(3) Neither the Cash Option Portion nor the Share Option Portion of each unexpired and unexercised Assumed Company Option shall be exercisable independent of the other. The purchase of each share of Parent Common Stock upon exercise of the Share Option Portion of an Assumed Company Option shall be conditioned upon the holder thereof simultaneously exercising (and, accordingly, paying the applicable exercise price) a portion of the Cash Option Portion of the Assumed Company Option that is equal to the quotient obtained by dividing the Cash Exchange Ratio by the Stock Exchange Ratio (rounded up to the nearest whole cent). Similarly, the exercise of an Assumed Company

Option for each dollar of the Cash Option Portion shall be conditioned upon the holder thereof simultaneously exercising the Assumed Company Option for an amount of shares of the Share Option Portion equal to the quotient obtained by dividing the Stock Exchange Ratio by the Cash Exchange Ratio (rounded down to the nearest whole share); provided that Assumed Company Options may not be exercised for partial shares of Parent Common Stock.

(ii) Company Warrants. The Company agrees to use commercially reasonable efforts to enter into agreements with the holders of Company Warrants providing for the exercise or cancellation of such Company Warrant, prior to, or contingent upon, the closing of the Merger. At the Effective Time, each Company Warrant, whether or not Vested, shall by virtue of the Merger be assumed by Parent. Each Company Warrant so assumed by Parent under this Agreement (an "Assumed Warrant") will continue to have, and be subject to, the same terms and conditions as provided in the respective warrant agreement governing such Company Warrant immediately prior to the Effective Time of the Merger (including without limitation Vesting schedules and Vesting commencement dates), including that the number of shares of Parent Common Stock and Merger Cash purchasable upon exercise of each such Assumed Warrant, and exercise price per share of Parent Common Stock shall be as determined pursuant to the terms of such Company Warrant and as the shares underlying the warrant are treated as described herein.

(f) Maximum Amount of Merger Consideration. Notwithstanding any provision contained herein or in the Merger Agreement to the contrary, the maximum amount of cash and Parent Common Stock to be paid and issued (or payable or issuable upon exercise or conversion of Equity Equivalents) in exchange for the acquisition by Parent of all outstanding Company Capital Stock and Equity Equivalents of the Company shall be (i) a cash amount equal to the Aggregate Cash Consideration, and (ii) an amount of Parent Common Stock equal to the Aggregate Stock Consideration.

### 3.2 Dissenting Shares.

(a) Notwithstanding any provision contained herein or in the Merger Agreement to the contrary, any shares of Company Capital Stock held by a holder that has demanded and perfected dissenters' rights for such shares in accordance with the CGCL and who, as of the Effective Time, has not effectively withdrawn or lost such dissenters' rights ("Dissenting Shares") shall not be converted into or represent the right to receive the consideration set forth in the Merger Agreement, but the holder thereof shall only be entitled to such rights as are granted by the CGCL.

(b) If any holder of shares of Company Capital Stock that demands, in accordance with Section 1301 of the CGCL, that the Company purchase such shares under the CGCL, shall effectively withdraw or lose (through failure to perfect or otherwise) such holder's dissenters' rights, then, as of the later of (i) the Effective Time or (ii) the occurrence of such event, such holder's shares shall automatically be converted into and represent only the right to receive the consideration set forth in the Merger Agreement, (without interest) upon surrender to the Company of the certificate representing such shares.

(c) The Company shall give Parent (i) prompt notice of its receipt of any written demands for purchase of any shares of Company Capital Stock, withdrawals of such demands, and any other instruments relating to the Merger served pursuant to the CGCL and (ii) the opportunity to participate in all negotiations and proceedings with respect to demands for purchase under the CGCL. The Company shall not, except with the prior written consent of Parent or as may be required under

applicable law, voluntarily make any payment with respect to any demands for purchase of Company Capital Stock, or offer to settle or settle any such demands.

### 3.3 Exchange Procedures

(a) Exchange Agent. The transfer agent of Parent shall serve as the exchange agent (the "Exchange Agent") in the Merger.

(b) Parent Common Stock and Cash. As promptly as practicable after the closing date of the Merger, Parent shall make available for exchange the Merger Shares and Merger Cash issuable in the Merger in exchange for outstanding shares of Company Capital Stock.

(c) Exchange Procedures. As soon as reasonably practicable after the Effective Time, the Surviving Corporation shall cause to be mailed to each holder of record of a certificate or certificates which immediately prior to the Effective Time represented outstanding shares of Company Capital Stock (the "Certificates"), (i) a letter of transmittal in customary form, reasonably acceptable to Parent and Company (which shall specify that delivery shall be effected, and risk of loss and title to the Certificates shall pass, only upon delivery of the Certificates to the Exchange Agent), (ii) instructions for use in effecting the surrender of the Certificates in exchange for Merger Consideration, and (iii) unless earlier delivered to Parent, a certificate to be signed and delivered by each holder of Company Capital Stock (the "Shareholder Certificate"). Upon surrender of a Certificate for cancellation to Exchange Agent or to such other agent or agents as may be appointed by Parent together with such letter of transmittal and Shareholder Certificate (unless, in the case of the Shareholder Certificate, such Shareholder Certificate has previously been executed and delivered by the holder), duly completed and validly executed in accordance with the instructions thereto, the holder of such Certificate shall be entitled to receive in exchange therefore the Merger Consideration to which such holder is entitled under the Merger Agreement. Until surrendered, each outstanding Certificate that, prior to the Effective Time, represented shares of Company Capital Stock will be deemed from and after the Effective Time, for all corporate purposes other than the payment of dividends, to evidence only the right to receive the Merger Consideration pursuant to the Merger Agreement.

(d) Distributions With Respect to Unexchanged Shares of Company Capital Stock. No dividends or other distributions with respect to Parent Common Stock that have a record date and distribution date after the Effective Time shall be paid to the holder of any unsurrendered Certificate with respect to the shares of Parent Common Stock represented thereby until the holder of record of such Certificate shall surrender such Certificate pursuant to the terms of the Merger Agreement. Subject to applicable law, following surrender of any such Certificate, there shall be paid to the record holder of the certificates representing whole shares of Parent Common Stock issued in exchange therefor, without interest, at the time of such surrender, the amount of dividends or other distributions with a record date and distribution date after the Effective Time theretofore payable with respect to such whole shares of Parent Common Stock.

(e) Transfer of Ownership. If any certificate for shares of Parent Common Stock is to be issued pursuant to the Merger in a name other than that in which the Certificate surrendered in exchange therefor is registered, it will be a condition of the issuance thereof that the Certificate so surrendered be properly enclosed and otherwise in proper form for transfer and that the person requesting such exchange will have paid to Parent or any agent designated by it any transfer or other taxes required by reason of the issuance of a certificate for shares of Parent Common Stock in any name other than that

of the registered holder of the Certificate surrendered, or that it be established to the satisfaction of Parent or any such agent that such tax has been paid or is not payable.

3.4 Adjustments to Exchange Ratios. The exchange ratios referred to herein shall be adjusted to reflect appropriately the effect of any stock split, reverse stock split, stock dividend (including any dividend or distribution of securities convertible into Parent Common Stock), reorganization, recapitalization, reclassification or other like change with respect to Parent Common Stock occurring on or after the date hereof and prior to the Effective Time of the Merger.

3.5 No Further Ownership Rights in Company Capital Stock. Any and all Merger Consideration issued or paid in exchange of shares of Company Capital Stock in accordance with the terms hereof shall be deemed to have been issued in full satisfaction of all rights pertaining to such shares of Company Capital Stock, and there shall be no further registration of transfers on the records of the Company of shares of Company Capital Stock that were outstanding immediately prior to the Effective Time. If, after the Effective Time, Certificates are presented to the Surviving Corporation for any reason, they shall be canceled and exchanged.

3.6 Lost, Stolen or Destroyed Certificates. In the event any Certificates shall have been lost, stolen or destroyed, the Exchange Agent shall issue in exchange for such lost, stolen or destroyed Certificates, upon the making of an affidavit of that fact by the holder thereof, the Merger Consideration and, if applicable, the dividends or distributions payable in the Merger to which the holder of such shares of Company Capital Stock would be entitled in the Merger; provided, however, that Parent may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed Certificates to provide an indemnity or deliver a bond in such sum as it may reasonably direct as indemnity against any claim that may be made against Parent with respect to the Certificates alleged to have been lost, stolen or destroyed.

3.7 Taking of Necessary Action; Further Action. If, at any time after the Effective Time, any further action is necessary or desirable to carry out the purposes of the Merger Agreement or to vest the Surviving Corporation with full right and title to and possession of all assets, property, rights, privileges, powers and franchises of the Company, the officers and directors of the Surviving Corporation are fully authorized to take, and shall take, all such lawful and necessary or desirable action.

#### ARTICLE IV

##### APPROVAL OF THE MERGER

4.1 The respective boards of directors of Sub and the Company have duly approved and adopted this Agreement, the Merger Agreement, and the Merger. The holders that (i) constitute at least a majority of the outstanding shares of Company Common Stock and Company Preferred Stock, voting together, (ii) constitute at least a majority of the outstanding shares of Company Common Stock, (iii) constitute at least a majority of the outstanding shares of Company Preferred Stock, (iv) constitute at least a majority of the outstanding shares of Series B Preferred Stock of the Company have duly approved and adopted this Agreement, the Merger Agreement, and the Merger. The sole shareholder of all the outstanding capital stock of Sub has duly approved and adopted this Agreement, the Merger Agreement, and the Merger.

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## ARTICLE V

### MISCELLANEOUS

5.1. Entire Agreement; Amendments. This Agreement, the Merger Agreement, and the schedules, exhibits and agreements referred to herein and therein constitute the entire agreement among the parties hereto with respect to the subject matter hereof and supersede all prior agreements and understandings among the parties with respect thereto. No addition to or modification of any provision of this Agreement shall be binding upon any party hereto unless made in writing and signed by all parties hereto.

5.2. Termination. This Agreement may be terminated and the proposed Merger abandoned at any time prior to the Effective Time, whether before or after approval and adoption of the Merger and the Merger Agreement by termination of the Merger Agreement by the mutual consent of the boards of directors of Parent and the Company.

5.3. Assignment. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any party hereto without the prior written consent of the other parties hereto. This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective successors, personal representatives and permitted assigns.

5.4. Further Assurances. Each party hereto shall execute and cause to be delivered to each other party hereto such instruments and other documents, and shall take such other actions, as such other party may reasonably request for the purpose of carrying out or evidencing the transactions contemplated by this Agreement.

5.5. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of California applicable to contracts entered into and to be performed wholly within the State of California.

5.6. Counterparts. This Agreement may be executed in any number of counterparts, each of which will be an original as regards any party whose signature appears thereon, and all of which together will constitute one and the same instrument.

## ARTICLE VI

### DEFINITIONS

6.1 Definitions. As used in this Agreement, the following defined terms shall have the meanings indicated below:

"Aggregate Cash Consideration" means an amount of cash equal to the sum of (a) \$40,000,000, and (b) the Consideration Adjustment Amount.

"Aggregate Common Number" means the aggregate number of shares of Company Common Stock outstanding immediately prior to the Effective Time (including all shares of Company Common Stock issued or issuable upon exercise, conversion or exchange in full of all unvested and vested Company Options, Company Warrants or other Equity Equivalents (other than shares of Company Series B Preferred Stock that are not converted into Company Common Stock prior to the Effective Time)) that

are not exercised, converted, exchanged or expired as of the Effective Time); provided, however, that unvested Company Options that will never vest pursuant to their terms as of and after the Effective Time and are held by Company employees that are not Continuing Employees shall not be included in the Aggregate Common Number.

"Aggregate Remaining Cash Consideration" means an amount of cash equal to the difference of (A) the Aggregate Cash Consideration, minus (B) the Series B Amount.

"Aggregate Stock Consideration" means an amount of shares of Parent Common Stock equal to (a) One Million, Two Hundred and Fifty Thousand (1,250,000) minus (b) the quotient obtained by dividing (x) the Consideration Adjustment Amount by (y) 34.25.

"Cash Exchange Ratio" means quotient obtained by dividing (a) the Aggregate Remaining Cash Consideration by (b) the Aggregate Common Number.

"Closing Cash Statement" means a statement reasonably acceptable to Parent, which states the amount of cash and cash equivalents (within the meanings of such terms under GAAP) of the Company as of that date that the Company shall prepare and deliver to Parent, at least one (1) Business Day prior to the closing of the Merger.

"Code" means the Internal Revenue Code of 1986, as amended.

"Company Capital Stock" means the Company Common Stock and the Company Preferred Stock.

"Company Common Number" means the number of shares of Company Common Stock outstanding immediately prior to the Effective Time (and following any conversion or exercise of any convertible or exercisable security for Company Common Stock immediately prior to the Effective Time), plus the number of shares of Company Common Stock issuable upon conversion of shares of Company Series A Preferred Stock outstanding immediately prior to the Effective Time.

"Company Option(s)" means any Option to purchase Company Capital Stock, excluding the Company Preferred Stock and the Company Warrants.

"Company Warrants" means any and all warrants to purchase Company Capital Stock.

"Consideration Adjustment Amount" means the amount of cash and cash equivalents (as defined under GAAP) held by the Company as of the Effective Time as indicated on the Closing Cash Statement less each of the following: (a) all Third Party Expenses and any amounts paid to the Purchaser Representative, as reflected in the Statement of Expenses and (b) the aggregate Severance Payments and Obligations as reflected in the Statement of Expenses delivered pursuant to the Merger Agreement.

"Continuing Employee" means each person who shall continue as an employee of the Surviving Corporation after the Effective Time.

"Equity Equivalents" means securities (including Options to purchase any shares of Company Capital Stock), which, by their terms, are or may be exercisable, convertible or exchangeable for or into common stock, preferred stock or other securities.

"Merger Consideration" means the consideration issuable and payable by Parent in the Merger.

"Merger Cash" means the cash issued in exchange for outstanding shares of Company Capital Stock and payable upon exercise of Assumed Company Options and assumed Company Warrants.

"Merger Shares" means the shares of Parent Common Stock issued in exchange for outstanding shares of Company Capital Stock and issuable upon exercise of Assumed Company Options and assumed Company Warrants.

"Option" with respect to any Person means any security, right, subscription, warrant, option, "phantom" stock right or other Contract (other than the Company Preferred Stock) that gives the right to (a) purchase or otherwise receive or be issued any shares of capital stock or other equity interests of such Person or any security of any kind convertible into or exchangeable or exercisable for any shares of capital stock or other equity interests of such Person or (b) receive any benefits or rights similar to any rights enjoyed by or accruing to the holder of shares of capital stock or other equity interests of such Person, including any rights to participate in the equity, income or election of directors or officers of such Person.

"Parent Common Stock" means the shares of the common stock, par value, \$0.001 per share, of the Parent.

"Person" means any natural person, corporation, general partnership, limited partnership, limited liability company or partnership, proprietorship, other business organization, trust, union, association or Governmental Authority.

"Reference Value" means four (4).

"Restricted" means, with respect to outstanding shares of Company Capital Stock or Merger Consideration, that such shares or Merger Consideration are subject to a right of repurchase, forfeiture or divestment in favor of either the party that issued such shares or paid or issued such Merger Consideration, or both.

"Series A Preferred Stock" means the Series A-1 Preferred Stock, Series A-2 Preferred Stock and Series A-3 Preferred Stock, collectively.

"Series B Amount" means the amount equal to the product of (x) the Total Outstanding Series B Shares, multiplied by (y) 8.28.

"Severance Payments and Obligations" means (A) all severance payments paid out to employees, consultants or directors of the Company during the period beginning on March 28, 2003 and ending immediately prior to the Effective Time, (B) all existing obligations entered into or otherwise agreed to by the Company or Company management with respect to severance arrangements with employees, consultants or directors of the Company, and (C) commissions owed by the Company to its employees, agents and consultants.

"Statement of Expenses" means a statement of Third Party Expenses incurred by the Company in form reasonably satisfactory to the Parent that the Company shall provide to Parent, at least one (1) business day prior to the closing date of the Merger.



"Stock Exchange Ratio" means the quotient obtained by dividing (a) the Aggregate Stock Consideration, by (b) the Aggregate Common Number.

"Third Party Expenses" means expenses of third parties incurred by a party to the Merger Agreement in connection with the negotiation and effectuation of the terms and conditions of the Merger Agreement and the transactions contemplated thereby.

"Total Outstanding Series B Shares" means the aggregate number of shares of Company Series B Preferred Stock (including any rights convertible into, or exercisable or exchangeable for, shares of Company Series B Preferred Stock on an as-converted, exercised, or exchanged basis) issued and outstanding immediately prior to the Effective Time.

"Vest" or "Vesting" means (a) with respect to an Option, such Option becoming vested and exercisable, and (b) with respect to shares of Parent Common Stock that are Restricted, such shares becoming released from the applicable risk of forfeiture or divestment or repurchase right; and "Vested" (a) with respect to Options, refers to the maximum number of shares which may then be issued upon exercise of such Option (and which upon such issuance will not be Restricted), and (b) with respect to shares of Parent Common Stock that are Restricted, refers to the number of shares which are released from the applicable risk of forfeiture or divestment or repurchase right.

\*\*\*\*\*



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date and year first above written.

**BERMUDA ACQUISITION INC.**

By: \_\_\_\_\_  
David Drummond  
President, Chief Executive Officer and Secretary

**APPLIED SEMANTICS, INC.**

By: Joan Libit  
Joan Libit  
President and Chief Executive Officer

By: Bradley Stein  
Bradley Stein  
Secretary

*[Signature Page to Agreement of Merger]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date and year first above written.

BERMUDA ACQUISITION INC.

By: 

David Drummond  
President, Chief Executive Officer and Secretary

APPLIED SEMANTICS, INC.

By: \_\_\_\_\_

Jordan Libin  
President and Chief Executive Officer

By: \_\_\_\_\_

Bradley Stein  
Secretary

*[Signature Page to Agreement of Merger]*

**Exhibit A**

**AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF  
APPLIED SEMANTICS, INC.**

**ARTICLE I**

The name of this corporation is Applied Semantics, Inc. (the "Corporation").

**ARTICLE II**

The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business, or the practice of a profession permitted to be incorporated by the California Corporations Code.

**ARTICLE III**

The Corporation is authorized to issue only one class of shares of stock, designated as common stock, and the total number of shares which the Corporation is authorized to issue is One Thousand (1,000), with a par value of \$0.001 per share.

**ARTICLE IV**

Section 1. Limitation of Directors' Liability. The liability of the directors of the Corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

Section 2. Indemnification of Corporate Agents. The Corporation is authorized to indemnify agents (as defined in Section 317 of the California Corporations Code) through bylaw provisions, agreements with the agents, vote of shareholders or disinterested directors, or otherwise in excess of the indemnification otherwise permitted by Section 317 of the California Corporations Code, subject only to applicable limits set forth in Section 204 of the California Corporations Code with respect to actions for breach of duty to the Corporation and its shareholders.

Section 3. Repeal or Modification. Any repeal or modification of the foregoing provisions of this Article V shall not adversely affect any right of indemnification or limitation of liability of an agent of the Corporation relating to acts or omissions occurring prior to such repeal or modification.

\*\*\*\*\*

**APPLIED SEMANTICS, INC.  
CERTIFICATE OF APPROVAL OF  
AGREEMENT OF MERGER**

We, Jordan Libit and Bradley Stein, certify that:

1. We are the President and Secretary, respectively, of Applied Semantics, Inc., a corporation duly organized and existing under the laws of the state of California (the "Company").
2. The total number of outstanding shares of each class of stock of the Company entitled to vote on the merger as of the record date is as follows:


Class	Total No. of Shares Entitled to Vote
Common	10,204,160
Series A Preferred Stock	805,000
Series B Preferred Stock	1,975,756

3. The principal terms of the Agreement of Merger in the form attached were duly approved by the board of directors of this corporation and by a vote of a number of shares of each class which equaled or exceeded the vote required for approval.
4. The percentage vote required for approval of each class was (i) at least a majority of the outstanding shares of Company Common Stock and Company Preferred Stock, voting together, (ii) at least a majority of the outstanding shares of Company Common Stock, (iii) at least a majority of the outstanding shares of Company Preferred Stock, and (iv) at least a majority of the outstanding shares of Series B Preferred Stock of the Company.
5. The principal terms of the Agreement of Merger in the form attached were duly approved by holders that (i) constitute at least a majority of the outstanding shares of Company Common Stock and Company Preferred Stock, voting together, (ii) constitute at least a majority of the outstanding shares of Company Common Stock, (iii) constitute at least a majority of the outstanding shares of Company Preferred Stock, and (iv) constitute at least a majority of the outstanding shares of Series B Preferred Stock of the Company.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.

Date: April 23, 2003

  
Jordan Libit  
President and Chief Executive Officer

  
Bradley Stein  
Secretary

**BERMUDA ACQUISITION INC.  
CERTIFICATE OF APPROVAL OF  
AGREEMENT OF MERGER**

I, David Drummond, certify that:


1. I am the President, Chief Executive Officer and Secretary of Bermuda Acquisition Inc., a corporation duly organized and existing under the laws of the state of California.
2. The total number of outstanding shares of each class of stock of the corporation entitled to vote on the merger as of the record date is as follows:

Class	Total No. of Shares Entitled to Vote
Common Stock	1,000

3. The principal terms of the Agreement of Merger in the form attached were duly approved by the board of directors of this corporation and by the vote of 100% of the outstanding shares of Common Stock of Bermuda Acquisition Inc.
4. No vote of the shareholders of Google Technology Inc., the sole shareholder of Bermuda Acquisition Inc., was required.

I further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of my own knowledge.

Date: April 23, 2003



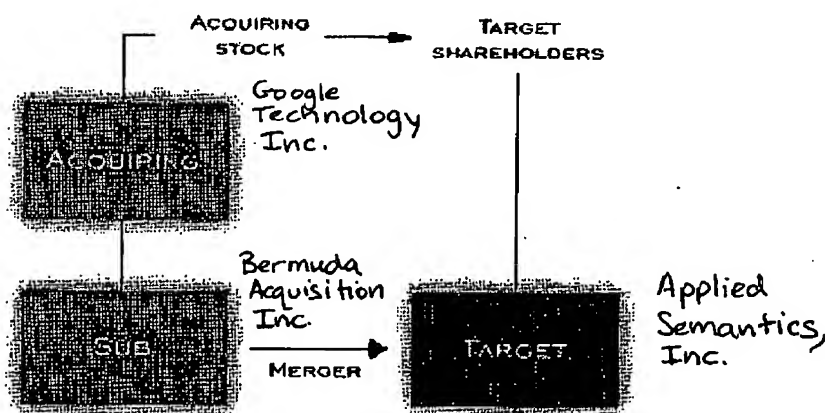
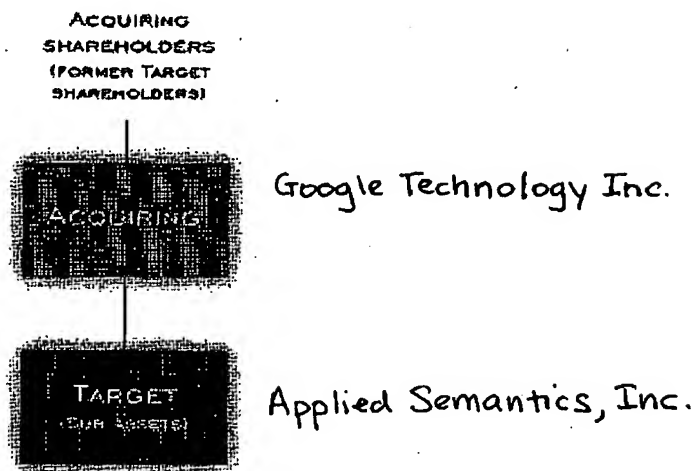
David Drummond  
President, Chief Executive Officer and  
Secretary



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**Internal Revenue Code §§ 368(a)(1)(A) and 368(a)(2)(E)**

In a **reverse triangular merger**, a subsidiary ("Sub") of the acquiring corporation ("Acquiring") merges into the target corporation ("Target"). Acquiring's Sub stock is converted into Target stock and the former Target shareholders receive the merger consideration in exchange for their Target stock. This form of acquisition is often desirable for regulatory or contractual reasons when it is important that no transfer of Target assets take place.

**(a)(2)(E) Reorganization Diagram****Post-Transaction Structure**

# Delaware

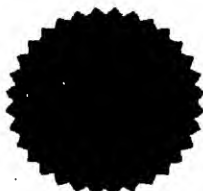
PAGE 1

*The First State*

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AGREEMENT OF MERGER, WHICH MERGES:

"GOOGLE TECHNOLOGY INC.", A CALIFORNIA CORPORATION,

WITH AND INTO "GOOGLE INC." UNDER THE NAME OF "GOOGLE INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE TWENTY-EIGHTH DAY OF AUGUST, A.D. 2003, AT 7:10 O'CLOCK P.M.



*Harriet Smith Windsor*  
Harriet Smith Windsor, Secretary of State

3582691 8100M

030578102

AUTHENTICATION: 2620769

DATE: 09-08-03

State of Delaware  
 Secretary of State  
 Division of Corporations  
 Delivered 07:29 PM 08/28/2003  
 FILED 07:10 PM 08/28/2003  
 SRV 030361579 - 3582691 FILE

**AGREEMENT AND PLAN OF MERGER  
 OF GOOGLE INC.  
 A DELAWARE CORPORATION  
 AND  
 GOOGLE TECHNOLOGY INC.  
 A CALIFORNIA CORPORATION**

THIS AGREEMENT AND PLAN OF MERGER dated as of August 27, 2003, (this "Agreement") is between Google Inc., a Delaware corporation ("Google-Delaware") and Google Technology Inc., a California corporation ("Google-California"). Google-Delaware and Google-California are sometimes referred to herein as the "Constituent Corporations."

**RECITALS**

A. Google-Delaware is a corporation duly organized and existing under the laws of the State of Delaware and has an authorized capital of 864,781,656 shares, 400,000,000 of which are designated "Common Stock", \$0.001 par value, 300,000,000 of which are designated "Class A Senior Common Stock", \$0.001 par value, and 164,781,656 of which are designated "Preferred Stock", \$0.001 par value. Of such authorized shares of Preferred Stock, 15,360,000 shares are designated "Series A Preferred Stock", 15,360,000 shares are designated "Series A-1 Preferred Stock", 50,444,772 shares are designated "Series B Preferred Stock", 50,444,772 shares are designated "Series B-1 Preferred Stock", 9,148,604 shares are designated "Series C Preferred Stock", 9,148,604 shares are designated "Series C-1 Preferred Stock", 7,437,452 shares are designated "Series D Preferred Stock", and 7,437,452 shares are designated "Series D-1 Preferred Stock". As of the date of this Agreement, 1,000 shares of Common Stock are issued and outstanding, all of which were held by Google-California. No shares of Preferred Stock are outstanding.

B. Google-California is a corporation duly organized and existing under the laws of the State of California and has an authorized capital of 864,781,656 shares, 400,000,000 of which are designated "Common Stock", no par value, 300,000,000 of which are designated "Class A Senior Common Stock", no par value, and 164,781,656 of which are designated "Preferred Stock", no par value. Of such authorized shares of Preferred Stock, 15,360,000 shares are designated "Series A Preferred Stock", 15,360,000 shares are designated "Series A-1 Preferred Stock", 50,444,772 shares are designated "Series B Preferred Stock", 50,444,772 shares are designated "Series B-1 Preferred Stock", 9,148,604 shares are designated "Series C Preferred Stock", 9,148,604 shares are designated "Series C-1 Preferred Stock", 7,437,452 shares are designated "Series D Preferred Stock", and 7,437,452 shares are designated "Series D-1 Preferred Stock". As of the record date of the consent of shareholders of which this Agreement was approved, there were issued and outstanding 160,929,560 shares of Class A Senior Common Stock, 9,715,868 shares of Common Stock, 15,360,000 shares of Series A Preferred Stock, no shares of Series A-1 Preferred Stock, 49,822,896 shares of Series B Preferred Stock, no shares of Series B-1 Preferred Stock, 6,479,396 shares of Series C Preferred Stock, no shares of Series C-1 Preferred Stock, no shares of Series D Preferred Stock and no shares of Series D-1 Preferred Stock.

C. The Board of Directors of Google-California has determined that, for the purpose of effecting the reincorporation of Google-California in the State of Delaware, it is advisable and in the best interests of Google-California that Google-California merge with and into Google-Delaware upon the terms and conditions herein provided.



D. The respective Boards of Directors of Google-Delaware and Google-California have approved this Agreement and have directed that this Agreement be submitted to a vote of their respective stockholders and executed by the undersigned officers.

E. The Merger (as defined below) is intended to qualify as a reorganization within the meaning of Section 368 of the Internal Revenue Code of 1986, as amended.

NOW, THEREFORE, in consideration of the mutual agreements and covenants set forth herein, Google-Delaware and Google-California hereby agree, subject to the terms and conditions hereinafter set forth, as follows:

#### 1. MERGER.

1.1 Merger. In accordance with the provisions of this Agreement, the Delaware General Corporation Law and the California General Corporation Law, Google-California shall be merged with and into Google-Delaware (the "Merger"), the separate existence of Google-California shall cease and Google-Delaware shall be, and is herein sometimes referred as, the "Surviving Corporation," and the name of the Surviving Corporation shall be Google Inc.

1.2 Filing and Effectiveness. The Merger shall be completed when the following actions shall have been completed:

(a) This Agreement and Plan of Merger was adopted and approved by the stockholders of each Constituent Corporation in accordance with the requirements of the Delaware General Corporation Law on August 15, 2003 and the California General Corporation Law on August 15, 2003;

(b) All of the conditions precedent to the consummation of the Merger specified in this Agreement shall have been satisfied or duly waived by the party entitled to satisfaction thereof;

(c) An executed Agreement and Plan of Merger meeting the requirements of the Delaware General Corporation Law shall have been filed with the Secretary of State of the State of Delaware;

(d) An executed Agreement and Plan of Merger meeting the requirements of the California Corporations Code shall have been filed with the Secretary of State of the State of California; and

(e) A permit pursuant to Section 25121 of the California General Corporation Law shall have been issued by the California Department of Corporations.

Pursuant to Section 252 of the Delaware General Corporation Law and Section 1108 of the California Corporations Code and the terms of this Section 1.2, the date and time when the Merger shall become effective, provided that subsections (a), (b), (c), (d) and (e) of this Section 1.2 are satisfied, shall be August 31, 2003, herein called the "Effective Date of the Merger."

1.3 Effect of the Merger. Upon the Effective Date of the Merger, the separate existence of Google-California shall cease and Google-Delaware, as the Surviving Corporation, (i) shall continue to possess all of its assets, rights, powers and property as constituted immediately prior to the Effective Date of the Merger, (ii) shall be subject to all actions previously taken by its and Google-California's Board of Directors, (iii) shall succeed, without other transfer, to all of the assets, rights, powers and property of Google-California in the manner more fully set forth in Section 259 of the Delaware General Corporation Law, (iv) shall continue to be subject to all of the debts, liabilities and obligations of Google-Delaware as constituted immediately prior to the Effective Date of the Merger, and (v) shall succeed, without other

transfer, to all of the debts, liabilities and obligations of Google-California in the same manner as if Google-Delaware had itself incurred them, all as more fully provided under the applicable provisions of the Delaware General Corporation Law and the California Corporations Code.

## II. CHARTER DOCUMENTS, DIRECTORS AND OFFICERS

**2.1 Certificate of Incorporation.** The Certificate of Incorporation of Google-Delaware as in effect immediately prior to the Effective Date of the Merger shall continue in full force and effect as the Certificate of Incorporation of the Surviving Corporation until duly amended in accordance with the provisions thereof and applicable law.

**2.2 Bylaws.** The Bylaws of Google-Delaware as in effect immediately prior to the Effective Date of the Merger shall continue in full force and effect as the Bylaws of the Surviving Corporation until duly amended in accordance with the provisions thereof and applicable law.

**2.3 Directors and Officers.** The directors and officers of Google-California immediately prior to the Effective Date of the Merger shall be the directors and officers of the Surviving Corporation until their successors shall have been duly elected and qualified or until as otherwise provided by law, the Certificate of Incorporation of the Surviving Corporation or the Bylaws of the Surviving Corporation.

## III. MANNER OF CONVERSION OF STOCK

**3.1 Google-California Common Shares.** Upon the Effective Date of the Merger, each share of Google-California Common Stock, issued and outstanding immediately prior thereto shall by virtue of the Merger and without any action by the Constituent Corporations, the holder of such shares or any other person, be converted into and exchanged for one fully paid and nonassessable share of Common Stock, \$0.001 par value, of the Surviving Corporation.

**3.2 Google-California Class A Senior Common Shares.** Upon the Effective Date of the Merger, each share of Google-California Class A Senior Common Stock, issued and outstanding immediately prior thereto shall by virtue of the Merger and without any action by the Constituent Corporations, the holder of such shares or any other person, be converted into and exchanged for one fully paid and nonassessable share of Class A Senior Common Stock, \$0.001 par value, of the Surviving Corporation.

### 3.3 Google-California Preferred Shares

(a) Upon the Effective Date of the Merger, each share of Series A Preferred Stock of Google-California, no par value, issued and outstanding immediately prior to the Merger, which shares are convertible into such number of shares (the "Series A Conversion Rate") of Google-California Common Stock or Class A Senior Common Stock, as the case may be, as set forth in the Google-California Ninth Amended and Restated Articles of Incorporation, as amended, (the "Restated Articles of Incorporation"), shall by virtue of the Merger and without any action by the Constituent Corporations, the holder of such shares or any other person, be converted into or exchanged for one fully paid and nonassessable share of Series A Preferred Stock of the Surviving Corporation, \$0.001 par value, respectively, having such rights, preferences and privileges as set forth in the Certificate of Incorporation of the Surviving Corporation which are identical to the rights, preferences, and privileges of shares of the Series A Preferred Stock of Google-California immediately before the Merger, which share of Preferred Stock shall be convertible into a number of shares of the Surviving Corporation's Common Stock, \$0.001 par value, or Class A Senior Common Stock, \$0.001 par value (as the case may be) equal to the Series A Conversion Rate, subject to adjustment pursuant to the terms of the Certificate of Incorporation of the Surviving Corporation.

(b) Upon the Effective Date of the Merger, each share of Series A-1 Preferred Stock of Google-California, no par value, issued and outstanding immediately prior to the Merger, if any, which shares are convertible into such number of shares (the "Series A-1 Conversion Rate") of Google-California Common Stock or Class A Senior Common Stock, as the case may be, as set forth in the Google-California Restated Articles of Incorporation, as amended, shall by virtue of the Merger and without any action by the Constituent Corporations, the holder of such shares or any other person, be converted into or exchanged for one fully paid and nonassessable share of Series A-1 Preferred Stock of the Surviving Corporation, \$0.001 per value, respectively, having such rights, preferences and privileges as set forth in the Certificate of Incorporation of the Surviving Corporation which are identical to the rights, preferences, and privileges of shares of the Series A-1 Preferred Stock of Google-California immediately before the Merger, which share of Preferred Stock shall be convertible into a number of shares of the Surviving Corporation's Common Stock, \$0.001 per value, or Class A Senior Common Stock, \$0.001 per value (as the case may be) equal to the Series A-1 Conversion Rate, subject to adjustment pursuant to the terms of the Certificate of Incorporation of the Surviving Corporation.

(c) Upon the Effective Date of the Merger, each share of Series B Preferred Stock of Google-California, no par value, issued and outstanding immediately prior to the Merger, which shares are convertible into such number of shares (the "Series B Conversion Rate") of Google-California Common Stock or Class A Senior Common Stock, as the case may be, as set forth in the Google-California Restated Articles of Incorporation, as amended, shall by virtue of the Merger and without any action by the Constituent Corporations, the holder of such shares or any other person, be converted into or exchanged for one fully paid and nonassessable share of Series B Preferred Stock of the Surviving Corporation, \$0.001 per value, respectively, having such rights, preferences and privileges as set forth in the Certificate of Incorporation of the Surviving Corporation which are identical to the rights, preferences, and privileges of shares of the Series B Preferred Stock of Google-California immediately before the Merger, which share of Preferred Stock shall be convertible into a number of shares of the Surviving Corporation's Common Stock, \$0.001 per value, or Class A Senior Common Stock, \$0.001 per value (as the case may be) equal to the Series B Conversion Rate, subject to adjustment pursuant to the terms of the Certificate of Incorporation of the Surviving Corporation.

(d) Upon the Effective Date of the Merger, each share of Series B-1 Preferred Stock of Google-California, no par value, issued and outstanding immediately prior to the Merger, if any, which shares are convertible into such number of shares (the "Series B-1 Conversion Rate") of Google-California Common Stock or Class A Senior Common Stock, as the case may be, as set forth in the Google-California Restated Articles of Incorporation, as amended, shall by virtue of the Merger and without any action by the Constituent Corporations, the holder of such shares or any other person, be converted into or exchanged for one fully paid and nonassessable share of Series B-1 Preferred Stock of the Surviving Corporation, \$0.001 per value, respectively, having such rights, preferences and privileges as set forth in the Certificate of Incorporation of the Surviving Corporation which are identical to the rights, preferences, and privileges of shares of the Series B-1 Preferred Stock of Google-California immediately before the Merger, which share of Preferred Stock shall be convertible into a number of shares of the Surviving Corporation's Common Stock, \$0.001 per value, or Class A Senior Common Stock, \$0.001 per value (as the case may be) equal to the Series B-1 Conversion Rate, subject to adjustment pursuant to the terms of the Certificate of Incorporation of the Surviving Corporation.

(e) Upon the Effective Date of the Merger, each share of Series C Preferred Stock of Google-California, no par value, issued and outstanding immediately prior to the Merger, which shares are convertible into such number of shares (the "Series C Conversion Rate") of Google-California Common Stock or Class A Senior Common Stock, as the case may be, as set forth in the Google-California Restated Articles of Incorporation, as amended, shall by virtue of the Merger and without any action by the Constituent Corporations, the holder of such shares or any other person, be converted into or exchanged for one fully paid

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and nonassessable share of Series C Preferred Stock of the Surviving Corporation, \$0.001 per value, respectively, having such rights, preferences and privileges as set forth in the Certificate of Incorporation of the Surviving Corporation which are identical to the rights, preferences, and privileges of shares of the Series C Preferred Stock of Google-California immediately before the Merger, which share of Preferred Stock shall be convertible into a number of shares of the Surviving Corporation's Common Stock, \$0.001 per value, or Class A Senior Common Stock, \$0.001 per value (as the case may be) equal to the Series C Conversion Rate, subject to adjustment pursuant to the terms of the Certificate of Incorporation of the Surviving Corporation.

(f) Upon the Effective Date of the Merger, each share of Series C-1 Preferred Stock of Google-California, no par value, issued and outstanding immediately prior to the Merger, if any, which shares are convertible into such number of shares (the "Series C-1 Conversion Rate") of Google-California Common Stock or Class A Senior Common Stock, as the case may be, as set forth in the Google-California Restated Articles of Incorporation, as amended, shall by virtue of the Merger and without any action by the Constituent Corporations, the holder of such shares or any other person, be converted into or exchanged for one fully paid and nonassessable share of Series C-1 Preferred Stock of the Surviving Corporation, \$0.001 per value, respectively, having such rights, preferences and privileges as set forth in the Certificate of Incorporation of the Surviving Corporation which are identical to the rights, preferences, and privileges of shares of the Series C-1 Preferred Stock of Google-California immediately before the Merger, which share of Preferred Stock shall be convertible into a number of shares of the Surviving Corporation's Common Stock, \$0.001 per value, or Class A Senior Common Stock, \$0.001 per value (as the case may be) equal to the Series C-1 Conversion Rate, subject to adjustment pursuant to the terms of the Certificate of Incorporation of the Surviving Corporation.

(g) Upon the Effective Date of the Merger, each share of Series D Preferred Stock of Google-California, no par value, issued and outstanding immediately prior to the Merger, if any, which shares are convertible into such number of shares (the "Series D Conversion Rate") of Google-California Common Stock or Class A Senior Common Stock, as the case may be, as set forth in the Google-California Restated Articles of Incorporation, as amended, shall by virtue of the Merger and without any action by the Constituent Corporations, the holder of such shares or any other person, be converted into or exchanged for one fully paid and nonassessable share of Series D Preferred Stock of the Surviving Corporation, \$0.001 per value, respectively, having such rights, preferences and privileges as set forth in the Certificate of Incorporation of the Surviving Corporation which are identical to the rights, preferences, and privileges of shares of the Series D Preferred Stock of Google-California immediately before the Merger, which share of Preferred Stock shall be convertible into a number of shares of the Surviving Corporation's Common Stock, \$0.001 per value, or Class A Senior Common Stock, \$0.001 per value (as the case may be) equal to the Series D Conversion Rate, subject to adjustment pursuant to the terms of the Certificate of Incorporation of the Surviving Corporation.

(h) Upon the Effective Date of the Merger, each share of Series D-1 Preferred Stock of Google-California, no par value, issued and outstanding immediately prior to the Merger, if any, which shares are convertible into such number of shares (the "Series D-1 Conversion Rate") of Google-California Common Stock or Class A Senior Common Stock, as the case may be, as set forth in the Google-California Restated Articles of Incorporation, as amended, shall by virtue of the Merger and without any action by the Constituent Corporations, the holder of such shares or any other person, be converted into or exchanged for one fully paid and nonassessable share of Series D-1 Preferred Stock of the Surviving Corporation, \$0.001 per value, respectively, having such rights, preferences and privileges as set forth in the Certificate of Incorporation of the Surviving Corporation which are identical to the rights, preferences, and privileges of shares of the Series D-1 Preferred Stock of Google-California immediately before the Merger, which share of Preferred Stock shall be convertible into a number of shares of the Surviving Corporation's Common Stock, \$0.001 per value, or Class A Senior Common Stock, \$0.001 per value (as the case may be) equal to the Series D-1

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Conversion Rate, subject to adjustment pursuant to the terms of the Certificate of Incorporation of the Surviving Corporation.

### 3.4 Google-California Options, Warrants, Stock Purchase Rights and Convertible Securities

(a) Upon the Effective Date of the Merger, the Surviving Corporation shall assume the obligations of Google-California under, and continue, the option plans (including, without limitation, the 1998 Stock Plan, 1999 Stock Option/Stock Insurance Plan, 2000 Stock Plan, 2003 Stock Plan, 2003 Stock Plan (No. 2) or 2003 Stock Plan (No. 3), which are referred to herein collectively, the "Google-California Stock Plans") and all other employee benefit plans of Google-California. Each outstanding and unexercised option, warrant, other right to purchase, or security convertible into, Google-California Common Stock, Google-California Class A Senior Common Stock or Google-California Preferred Stock (a "Right") shall become an option, warrant, right to purchase or a security convertible into the Surviving Corporation's Common Stock, Class A Senior Common Stock or Preferred Stock, respectively, on the basis of one share of the Surviving Corporation's Common Stock, Class A Senior Common Stock or Preferred Stock, as the case may be, for each one share of Google-California Common Stock, Class A Senior Common Stock or Preferred Stock, as the case may be, issuable pursuant to any such Right (with the series of the shares of the Surviving Corporation's Preferred Stock corresponding to the series of Google-California Preferred Stock replaced), on the same terms and conditions and at an exercise price equal to the exercise price applicable to any such Google-California Right as the Effective Date of the Merger. This paragraph 3.4(a) shall not apply to outstanding shares of Google-California Common Stock, Class A Senior Common Stock or Preferred Stock. Such Common Stock, Class A Senior Common Stock and Preferred Stock are subject to paragraphs 3.1, 3.2 and 3.3 respectively, hereof.

(b) A number of shares of the Surviving Corporation's Common Stock, Class A Senior Common Stock and Preferred Stock shall be reserved for issuance upon the exercise of options, warrants, stock purchase rights and convertible securities equal to the number of shares of Google-California Common Stock, Class A Senior Common Stock and Preferred Stock so reserved immediately prior to the Effective Date of the Merger.

Notwithstanding the foregoing, with respect to options issued under the Google-California Stock Plans that are assumed in the Merger, the number of shares of Common Stock to which the holder would be otherwise entitled upon exercise of each such assumed option following the Merger shall be rounded down to the nearest whole number and the exercise price shall be rounded up to the nearest whole cent. In addition, no "additional benefits" (within the meaning of Section 424(a)(2) of the Internal Revenue Code of 1986, as amended) shall be accorded to the optionees pursuant to the assumption of their options.

3.5 Google-Delaware Common Stock. Upon the Effective Date of the Merger, each share of Common Stock, \$0.001 per value, of Google-Delaware issued and outstanding immediately prior thereto shall, by virtue of the Merger and without any action by Google-Delaware, the holder of such shares or any other person, be cancelled and returned to the status of authorized but unissued shares.

3.6 Cancellation of Physical Certificates/Issuance of Stock By Electronic Means. Each physical stock certificate representing issued and outstanding shares of Google-California Common Stock, Class A Senior Common Stock or Preferred Stock prior to the Effective Date will, after the Effective Date, be cancelled and such certificate will cease to represent any shares of capital stock of Google-California (and such certificate will not represent any shares of capital stock of the Surviving Corporation) and, further, such certificate will cease to entitle the holder thereof to exercise any voting and other rights with respect to, or to receive dividends and other distributions upon, any shares of capital stock of Google-California (and such certificate will not entitle the holder thereof to exercise any voting and other rights with respect to, or to receive dividends and other distributions upon, any shares of capital stock of the Surviving Corporation).

Each holder of a certificate representing issued and outstanding shares of Google-California Common Stock, Class A Senior Common Stock or Preferred Stock prior to the Effective Date shall, upon the cancellation of such certificate on the Effective Date, in lieu of receiving a physical certificate in exchange therefor, be registered in the Surviving Corporation's electronic book entry capitalization system as a holder of an appropriate number of shares of the Surviving Corporation's Common Stock, Class A Senior Common Stock or Preferred Stock (into which the shares represented by such cancelled certificate was converted as provided herein), as the case may be, which shares shall be issued and recorded by electronic means as of the Effective Date.

If any shares of the Surviving Corporation's stock are to be electronically issued and recorded in a name other than that in which the stock certificate cancelled in exchange therefor is registered, it shall be a condition of issuance and recordation thereof that such transfer be properly documented to the satisfaction of the Surviving Corporation and otherwise in compliance with applicable securities laws and, further, that the person requesting such transfer pay to the Exchange Agent any transfer or other taxes payable by reason of such electronic issuance and recordation of shares in a name other than that of the registered holder of the certificate cancelled or otherwise establish to the satisfaction of the Surviving Corporation that such tax has been paid or is not payable.

#### IV. GENERAL

4.1 Covenants of Google-Delaware. Google-Delaware covenants and agrees that it will, on or before the Effective Date of the Merger:

(a) Qualify to do business as a foreign corporation in the State of California and in connection therewith irrevocably appoint an agent for service of process as required under the provisions of Section 2105 of the California General Corporation Law.

(b) File any and all documents with the California Franchise Tax Board necessary for the assumption by Google-Delaware of all of the franchise tax liabilities of Google-California.

(c) Take such other actions as may be required by the California General Corporation Law.

4.2 Further Assurances. From time to time, as and when required by Google-Delaware or by its successors or assigns, there shall be executed and delivered on behalf of Google-California such deeds and other instruments, and there shall be taken or caused to be taken by it such further and other actions as shall be appropriate or necessary in order to vest or perfect in or conform of record or otherwise by Google-Delaware the title to and possession of all the property, interests, assets, rights, privileges, immunities, powers, franchises and authority of Google-California and otherwise to carry out the purposes of this Agreement, and the officers and directors of Google-Delaware are fully authorized in the name and on behalf of Google-California or otherwise to take any and all such action and to execute and deliver any and all such deeds and other instruments.

4.3 Abandonment. At any time before the Effective Date of the Merger, this Agreement may be terminated and the Merger may be abandoned for any reason whatsoever by the Board of Directors of either Google-California or of Google-Delaware, or of both, notwithstanding the approval of this Agreement by the shareholders of Google-California or by the sole stockholder of Google-Delaware, or by both.

4.4 Amendment. The Boards of Directors of the Constituent Corporations may amend this Agreement at any time prior to the filing of this Agreement (or certificate in lieu thereof) with the Secretary of State of the State of Delaware, provided that an amendment made subsequent to the adoption of this

Agreement by the stockholders of either Constituent Corporation shall not: (1) alter or change the amount or kind of shares, securities, cash, property and/or rights to be received in exchange for or on conversion of all or any of the shares of any class or series thereof of such Constituent Corporation, (2) alter or change any term of the Certificate of Incorporation of the Surviving Corporation to be effected by the Merger, or (3) alter or change any of the terms and conditions of this Agreement if such alteration or change would adversely affect the holders of any class or series of capital stock of any Constituent Corporation.

4.5 Registered Office. The registered office of the Surviving Corporation in the State of Delaware is State of Delaware is 2711 Centerville Road, Suite 400, City of Wilmington, County of New Castle, State of Delaware 19808, and Corporation Service Company is the registered agent of the Surviving Corporation at such address.

4.6 Agreement. Executed copies of this Agreement will be on file at the principal place of business of the Surviving Corporation at 2400 Bayshore Parkway, Mountain View, California 94043, and copies thereof will be furnished to any stockholder of either Constituent Corporation upon request and without cost.

4.7 Governing Law. This Agreement shall in all respects be construed, interpreted and enforced in accordance with and governed by the laws of the State of Delaware and, so far as applicable, the merger provisions of the California General Corporation Law.

*[Remainder of Page Left Blank Intentionally]*

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IN WITNESS WHEREOF, this Agreement having first been approved by the resolutions of the Board of Directors of Google-Delaware and Google-California is hereby executed on behalf of each of such two corporations by their respective officers thereto duly authorized.

**GOOGLE TECHNOLOGY INC.**  
a California corporation

By: /s/ ERIC SCHMIDT  
Eric Schmidt, Chairman of the Board

By: /s/ DAVID C. DRUMMOND  
David C. Drummond, Secretary

**GOOGLE INC.**  
a Delaware corporation

By: /s/ ERIC SCHMIDT  
Eric Schmidt, Chairman of the Board

By: /s/ DAVID C. DRUMMOND  
David C. Drummond, Secretary

*(Signature Page to Agreement and Plan of Merger)*



**GOOGLE TECHNOLOGY INC.**  
(a California corporation)

**OFFICERS' CERTIFICATE**

Eric Schmidt and David C. Drummond certify that:

1. They are the Chairman of the Board and the Secretary, respectively, of Google Technology Inc., a corporation organized under the laws of the State of California (the "Corporation").
2. The Corporation has an authorized capital of 864,781,656 shares, 400,000,000 of which are designated "Common Stock", \$0.001 per value, 300,000,000 of which are designated "Class A Senior Common Stock", \$0.001 per value, and 164,781,656 of which are designated "Preferred Stock", \$0.001 per value. Of such authorized shares of Preferred Stock, 15,360,000 shares are designated "Series A Preferred Stock", 15,360,000 shares are designated "Series A-1 Preferred Stock", 50,444,772 shares are designated "Series B Preferred Stock", 50,444,772 shares are designated "Series B-1 Preferred Stock", 9,148,604 shares are designated "Series C Preferred Stock", 9,148,604 shares are designated "Series C-1 Preferred Stock", 7,437,452 shares are designated "Series D Preferred Stock", and 7,437,452 shares are designated "Series D-1 Preferred Stock".
3. As of the record date (the "Record Date") of the written consent of shareholders at which the Agreement and Plan of Merger (to which this certificate is attached) (the "Merger Agreement") was approved, there were issued and outstanding 160,929,560 shares of Class A Senior Common Stock, 9,715,868 shares of Common Stock, 15,360,000 shares of Series A Preferred Stock, no shares of Series A-1 Preferred Stock, 49,822,896 shares of Series B Preferred Stock, no shares of Series B-1 Preferred Stock, 6,479,536 shares of Series C Preferred Stock, no shares of Series C-1 Preferred Stock, no shares of Series D Preferred Stock and no shares of Series D-1 Preferred Stock. All shares of Common Stock, Class A Senior Common Stock and Preferred Stock outstanding as of the Record Date were entitled to vote on the merger.
4. The principal terms of the Merger Agreement were approved by the Board of Directors and by the vote of a number of shares of each class of stock which equaled or exceeded the vote required.
5. The percentage vote required was (i) more than 50% of the votes entitled to be cast by holders of Common Stock outstanding as of the Record Date, voting as a single class, (ii) more than 50% of the votes entitled to be cast by holders of Class A Senior Common Stock outstanding as of the Record Date, voting as a single class, and (iii) more than 50% of the votes entitled to be cast by the holders of Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock outstanding as of the Record Date, voting as a single class.
6. Eric Schmidt and David C. Drummond further declare under penalty of perjury under the laws of the State of California that each has read the foregoing certificate and knows the contents thereof and that the same is true of their own knowledge.

Executed in Mountain View, California on August 27, 2003.

/s/ ERIC SCHMIDT

Eric Schmidt, Chairman of the Board

/s/ DAVID C. DRUMMOND

David C. Drummond, Secretary

GOOGLE INC.  
(a Delaware corporation)

OFFICERS' CERTIFICATE

Eric Schmidt and David C. Drummond certify that:

1. They are the Chairman of the Board and the Secretary, respectively, of Google Inc., a corporation organized under the laws of the State of Delaware (the "Corporation").

2. The Corporation has an authorized capital of 864,781,656 shares, 400,000,000 of which are designated "Common Stock", \$0.001 par value, 300,000,000 of which are designated "Class A Senior Common Stock", \$0.001 par value, and 164,781,656 of which are designated "Preferred Stock", \$0.001 par value. Of such authorized shares of Preferred Stock, 15,360,000 shares are designated "Series A Preferred Stock", 15,360,000 shares are designated "Series A-1 Preferred Stock", 50,444,772 shares are designated "Series B Preferred Stock", 50,444,772 shares are designated "Series B-1 Preferred Stock", 9,148,604 shares are designated "Series C Preferred Stock", 9,148,604 shares are designated "Series C-1 Preferred Stock", 7,437,452 shares are designated "Series D Preferred Stock", and 7,437,452 shares are designated "Series D-1 Preferred Stock".

3. As of the record date (the "Record Date") of the written consent of shareholders at which the Agreement and Plan of Merger (to which this certificate is attached) (the "Merger Agreement") was approved, 1,000 shares of Common Stock were issued and outstanding, all of which were held by Google Technology Inc., a California corporation. No shares of Preferred Stock were outstanding. All shares of Common Stock outstanding as of the Record Date were entitled to vote on the merger.

4. The principal terms of the Merger Agreement were approved by the Board of Directors and by the vote of a number of shares of each class of stock which equaled or exceeded the vote required.

5. The percentage vote required was (i) more than 50% of the votes entitled to be cast by holders of Common Stock outstanding as of the Record Date.

6. Eric Schmidt and David C. Drummond further declare under penalty of perjury under the laws of the State of California that each has read the foregoing certificate and knows the contents thereof and that the same is true of their own knowledge.

Executed in Mountain View, California on August 27, 2003:

/s/ ERIC SCHMIDT

Eric Schmidt, Chairman of the Board

/s/ DAVID C. DRUMMOND

David C. Drummond, Secretary